

MIKE WINSOR
Office of the Commissioner of Securities
and Insurance, Montana State Auditor (CSI)
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Attorney for the CSI

**BEFORE THE COMMISSIONER OF SECURITIES AND INSURANCE
MONTANA STATE AUDITOR**

_____)	Case No.: INS-2013-06
IN THE MATTER OF ARCH INSURANCE)	
COMPANY,)	CONSENT AGREEMENT
)	AND FINAL ORDER
Respondent.)	
)	
_____)	

This Consent Agreement (Agreement) and Final Order (Order) is entered into by the Office of the Commissioner of Securities and Insurance, Montana State Auditor (CSI), acting pursuant to the authority of the Montana Insurance Code, Mont. Code Ann. § 33-1-101, et seq. (Code), and Arch Insurance Company (Respondent).

RECITALS

WHEREAS, on June 25, 2012, a consumer complaint was filed with the CSI resulting in a determination that the Respondent's forms contained modifications beyond the variable bracket allowance approved by the CSI pursuant to Mont. Code Ann. § 33-1-501.

WHEREAS, additional concerns involving claims handling, in violation of Mont. Code Ann. §§ 33-18-201(3), were identified by the CSI;

WHEREAS, the Respondent resolved the consumer complaint to the CSI's satisfaction, ceased using its forms, instruct the company administering claims to follow the procedure stated in **STIPULATIONS AND CONSENTS** in this Agreement, and fully cooperated with the CSI;

WHEREAS, the CSI and the Respondent agree that the best interests of the public will be served by entering into this Agreement;

NOW, THEREFORE, in consideration of the mutual undertakings contained in this Agreement, the CSI and the Respondent hereby agree to settle this matter pursuant to the following stipulations and consents:

STIPULATIONS AND CONSENTS

Without admitting or denying any of the CSI's allegations, the Respondent stipulates and consents to the following:

1. Respondent agrees to pay an administrative penalty in the amount of \$29,075. Payment shall be made within ten days of the execution of this Consent Agreement and Final Order. Payment shall be sent to the Office of the Commissioner of Securities and Insurance, Montana State Auditor, c/o Mike Winsor, 840 Helena Avenue, Helena MT 59601, and must be made payable to the Montana State Auditor's Office.

2. Respondent agrees that upon receipt of a claim notice from a Montana insured, the Respondent will send a request for information to the claimant. If there is no response to the initial request for information, a follow-up request will be sent to the claimant within thirty to forty-five days of the initial notice date. The follow-up notice will state:

We have not received a response to our request for information and/or documentation needed to process your claim. If we do not receive a

response from you, your file will be closed 30 days from the date of this notice. However, upon receipt of the requested information, we will re-open your file and review your claim accordingly.

3. Respondent instructed the company administering claims to send the foregoing notice(s) to Montana insureds whose files were closed due to inactivity and said company sent such notices on March 5, 2013.

4. Respondent agrees not to write travel insurance in Montana unless and until its travel forms are re-submitted for approval.

5. When submitting forms containing bracketed variables for form approval, the Respondent agrees to submit a statement of variability with the form filing. All variables within a policy form must be listed in the statement of variability. The statement of variability must explain, in detail, the extent of variability. The CSI will not accept an explanation of variability such as “may be replaced with something else,” “may be omitted,” or similar statements. Changes to policy forms outside of bracketed variables must not be made. Changes made within bracketed variables subsequent to form approval must be re-submitted for approval.

6. Respondent fully and forever releases and discharges the Commissioner of Securities and Insurance (Commissioner), the CSI, and all of the CSI’s employees and agents from any and all actions, claims, causes of action, demands, or expenses for damages or injuries, whether asserted or unasserted, known or unknown, foreseen or unforeseen, arising out of this Agreement.

7. This Agreement is entered without adjudication of any issue, law, or fact. It is entered into solely for the purpose of resolving the CSI’s investigation and allegations, and is not intended to be used for any other purpose. For any person or entity

not a party to this Agreement, this Agreement does not limit or create any private rights or remedies against the Respondent including limit or create liability of Respondent, or limit or create defenses of Respondent, to any claims.

8. Upon execution of this Agreement, the Respondent acknowledges and waives its right to appeal the Commissioner's Order.

9. This Agreement constitutes the entire agreement between the parties and no other promises or agreements, either express or implied, have been made by the CSI or by any member, officer, agent, or representative of the CSI to induce Respondent to enter into this Agreement.

10. This Agreement may not be modified orally and any subsequent modifications to this Agreement must be mutually agreed upon in writing to be effective.

11. This Agreement shall be incorporated into and made a part of the attached Final Order issued by the Commissioner herein.

12. Upon execution of this Agreement, the CSI will not commence an administrative action against the Respondent based upon the activities giving rise to the CSI's investigation that occurred prior to the execution of this Agreement.

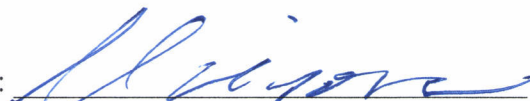
13. This Consent Agreement shall be effective upon signing of the Final Order.

14. Respondent further understands that, upon the signing of the Final Order by the Commissioner or her representative, this Agreement will be an order of the Commissioner and failure to comply with the same may constitute separate violations of the Montana Insurance Code, pursuant to Mont. Code Ann. § 33-1-318 and/or other applicable statutes or rules, and may result in subsequent legal action by the CSI.

15. The Agreement is a public record under Montana law and as such may not be sealed or otherwise withheld from the public.


DATED this 16 day of May, 2013.

**OFFICE OF THE COMMISSIONER OF
SECURITIES AND INSURANCE,
MONTANA STATE AUDITOR**

By: 
MIKE WINSOR
Attorney for the CSI

DATED this 14th day of May, 2013.

ARCH INSURANCE COMPANY

By: 

Its: VICE PRESIDENT - COMPLIANCE
AND STATISTICAL REPORTING

FINAL ORDER

Pursuant to the authority vested by Mont. Code Ann. § 2-4-603 and §§ 33-1-101, et seq., and upon review of the foregoing Consent Agreement and good cause appearing,

IT IS HEREBY ORDERED that the foregoing Consent Agreement between the CSI and the Respondent is adopted as if set forth fully herein.

DATED this 16TH day of May, 2013.

MONICA J. LINDEEN

Commissioner of Securities and Insurance
Montana State Auditor

By: 

GREG DAHL

Deputy Commissioner of Insurance

cc: Mike Winsor, CSI
Arch Insurance Company